

LEONARD D. WEXLER
UNITED STATES DISTRICT JUDGE
PO BOX 9014
CENTRAL ISLIP, NY 11722-9014
OFFICIAL BUSINESS

FILED
U.S. DISTRICT COURT E.D.N.Y.

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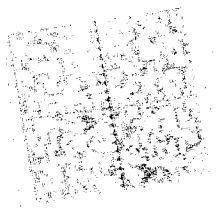
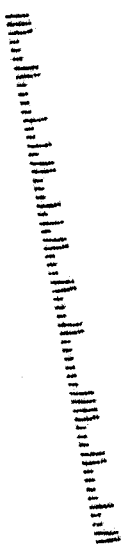
LONG ISLAND OFFICE

Mario Chavarria
Apartado 3124-1000
San Jose, Costa Rica

00463/0001

06 OCT 2009

Sergio Alvarez



UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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MADISON STOCK TRANSFER, INC.

Plaintiff,
-against-

MEMORANDUM AND
ORDER

CV 06-3926
(Wexler, J.)

NETCO INVESTMENTS, INC.
MARCO CHAVARRIA, AJW
PARTNERS, LLC, NEW MILLENIUM
CAPITAL PARTNERS II, LLC, AJW
OFFSHORE, LTD. And AJW QUALIFIED
PARTNERS, LLC.,

Defendants.
-----X

APPEARANCES:

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Defendant Pro Se
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AJW Offshore, Ltd., and Qualified Partners, LLC
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WEXLER, District Judge

This is an interpleader action commenced pursuant to 28 U.S.C. §1335, by Plaintiff Madison Stock Transfer, Inc. ("Madison"). In a Memorandum and Order dated April 23, 2009, this court adopted the Report and Recommendation of Magistrate Judge Wall dated December 18, 2008, which recommended that a default judgment be entered against Chavarria on the Intervenor-Defendants' cross-claim against him and that Chavarria's counterclaim against them be dismissed. That Memorandum and Order noted Chavarria's complete disregard for the discovery orders in this matter, and his failure to appear in person at all, in this litigation. In accord with this court's adoption of the R&R, the Clerk of the Court was directed to enter a judgment of default against Chavarria on the Intervenor-Defendants' cross-claim against him and to dismiss Chavarria's counterclaim against them.

The court notes that Mr. Chavarria also has pending two motions docketed at numbers 156 and 157. The motions are hereby denied because of Chavarria's failure to participate in this

¹ The court lists two addresses here for Mr. Chavarria. The first address is listed as his address of record and the second is the return address printed on the envelope that contained Chavarria's objections to the report and recommendation that is before the court. The court will mail copies of this opinion to both addresses.

action. A party such as Chavarria cannot repeatedly seek the assistance of this court, many times making the same request multiple times, yet fail to participate in the litigation. His pending motions are therefore denied.

Also presently before the court is the motion of Plaintiff Madison Stock Transfer, Inc. ("Madison Stock") for the same relief previously granted to the Intervenor/Defendants, i.e., a judgment of default against Marco Chavarria. Madison Stock seeks a judgment of default for the same reasons such a judgment was sought by the Intervenor/Defendants, i.e., Chavarria's complete disregard of discovery orders and his failure to appear personally in this matter over the number of years that the case has been pending. This court agrees that Madison Stock has been prejudiced to the same extent as the Intervenor/Defendants by Chavarria's failure to participate in discovery and is therefore entitled to the same relief. The Clerk of the Court is therefore directed to enter a judgment of default in favor of Madison Stock and against Marco Chavarria for his failure to participate in discovery in this litigation.

In light of the entries of full default against Netco and Chavarria, the Clerk of the Court is directed to close the file in this matter.

SO ORDERED.

LEONARD D. WEXLER
UNITED STATES DISTRICT JUDGE

Dated: Central Islip, New York
September 30, 2009